

## CIVIL COVER SHEET

A - 1 2 - 6 5 5 4 2 6 - B

Clark County, Nevada

X I I I

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information**

Plaintiff(s) (name/address/phone): WINGFIELD NEVADA  
GROUP HOLDING COMPANY LLC; TUFFY RANCH  
PROPERTIES, LLC; THE FOOTHILLS AT  
WINGFIELD, LLC

Attorney (name/address/phone):

James J. Pisanelli, Esq., Pisanelli Bice, PLLC, 3883 Howard  
Hughes Parkway, #800, Las Vegas, NV 89169 702-214-2100

Defendant(s) (name/address/phone): F. HARVEY WHITEMORE,  
ANNETTE WHITEMORE; THE LAKESHORE HOUSE  
LIMITED PARTNERSHIP

Attorney (name/address/phone):

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence</b> <input type="checkbox"/> Negligence -- Auto <input type="checkbox"/> Negligence -- Medical/Dental <input type="checkbox"/> Negligence -- Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence -- Other	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
<input type="checkbox"/> <b>Probate</b> Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Other Civil Filing Types</b> <input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acts/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	

**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business             |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input checked="" type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |  |

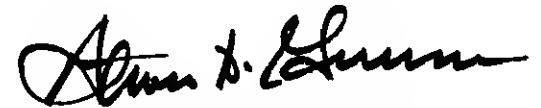
January 27, 2012

Date

/s/ James J. Pisanelli

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

**COMP**

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*Attorneys for Plaintiffs Wingfield Nevada Group*

*Holding Company, LLC, Tuffy Ranch Properties, LLC and*

*The Foothills at Wingfield, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WINGFIELD NEVADA GROUP HOLDING  
COMPANY LLC, a Nevada limited liability  
company, TUFFY RANCH PROPERTIES,  
LLC, a Nevada limited partnership; THE  
FOOTHILLS AT WINGFIELD, LLC, a  
Nevada limited liability company

Plaintiffs,

vs.

F. HARVEY WHITEMORE, an individual;  
ANNETTE WHITEMORE, an individual;  
THE LAKESHORE HOUSE LIMITED  
PARTNERSHIP, a Nevada Limited  
partnership; DOES I through X and ROE  
CORPORATIONS XI through XX,

Defendants.

Case No.: A - 1 2 - 6 5 5 4 2 6 - B

Dept. No.: X I I I

**COMPLAINT**

**(Request for Business Court Assignment  
Pursuant to EDCR 1.61(a)(2)(ii))**

Plaintiffs Wingfield Nevada Group Holding Company, LLC ("Wingfield" or "WNG"),  
Tuffy Ranch Properties, LLC ("TRP"), and The Foothills at Wingfield, LLC ("Foothills")  
(collectively "Plaintiffs") by and through their attorneys, PISANELLI BICE PLLC and ROBISON,  
BELAUSTEGUI, SHARP & LOW, for their Complaint against F. Harvey Whittemore ("Whittemore"),

1 Annette Whittemore, and The Lakeshore House Limited Partnership ("LHLP") (collectively  
2 "Defendants") state and allege as follows:

3 **OVERVIEW**

4 1. This is a case involving the misappropriation, breach of fiduciary duties and  
5 embezzlement of tens of millions of dollars. Acting as a manager of Wingfield, Whittemore has  
6 admitted and confessed to engaging in over 20 different financial transactions designed to deplete  
7 Wingfield of its assets for the sole purposes of enhancing and promoting Whittemore's financial  
8 condition and to further his standing in the political community of Nevada. By engaging in  
9 misappropriation of corporate assets, by misusing and exploiting corporate assets, by failing to  
10 document corporate and personal transactions, by misleading and lying to other Wingfield owners  
11 and employees, by discouraging employees from disclosing key facts to the other Wingfield  
12 owners, and by using the bank accounts of Wingfield for his personal purposes, Whittemore has  
13 breached his fiduciary duties to Wingfield and its owners, has committed a series of fraudulent  
14 transactions designed to financially harm Plaintiffs, and has conspired to use Wingfield  
15 improperly and illegally to advance his personal and financial interests. Whittemore must be  
16 ordered to make full and complete restitution, pay Wingfield all sums he has misappropriated, pay  
17 compensatory damages, legal fees, court costs, and punitive damages in an amount no less than  
18 the compensatory damages awarded.

19 **PARTIES**

20 2. Wingfield is a Nevada limited liability company doing business in the State of  
21 Nevada.

22 3. TRP is a Nevada limited liability company doing business in the State of Nevada.

23 4. Foothills is a Nevada limited liability company doing business in the State of  
24 Nevada.

25 5. Upon information and belief, Whittemore is a resident of Washoe County. During  
26 all material times mentioned herein, he resided in Washoe County. Whittemore is a licensed  
27 Nevada attorney. Whittemore conducted personal and business transactions with Plaintiffs and  
28 acted in a fiduciary capacity to the Plaintiffs.

1           6.       Upon information and belief, Annette Whittemore is a resident of Washoe County.  
2 During all material times mentioned herein, she resided in Washoe County.

3           7.       LHLP is a Nevada limited partnership doing business in the State of Nevada.

4           8.       The true names and capacities, whether individual, corporate, associate or  
5 otherwise, of the Defendants DOES I through X, inclusive, and ROE CORPORATIONS XI  
6 through XX, inclusive, and each of them, are unknown to Plaintiffs at the present time, and  
7 Plaintiffs therefore sue said Defendants by such fictitious names. Plaintiffs are informed and  
8 believe and thereon allege that each of the Defendants designated herein as DOES I through X  
9 and ROE CORPORATIONS XI through XX, are responsible for the claims and damages alleged  
10 herein. Once discovery has disclosed the true identities of such parties, Plaintiffs will ask leave of  
11 this Court to amend their Complaint to insert the true names and capacities of said Defendants  
12 DOES I through X, inclusive, and ROE CORPORATIONS XI through XX, inclusive, and join  
13 such Defendants in this action.

14                               **GENERAL ALLEGATIONS**

15           9.       In early 2004, Whittemore, individually and Defendant LHLP (an entity then  
16 owned by Whittemore and his family), sold 50% of their ownership interest in various companies,  
17 including Argus Media, Inc., Wild West Sound Company, Inc., Redlabs U.S.A., Inc., and Dr.  
18 Pepper/7-Up Bottling Company of the West, Coyote Springs Water Corporation and Coyote  
19 Springs Land Development Corporation to Thomas Seeno's company, TNSS, LLC ("TNSS") or  
20 to the Thomas A. Seeno and Norine E. Seeno 1999 Living Trust I.

21           10.      In early 2005, Whittemore, LHLP, and TNSS, LLC agreed to transfer all of their  
22 ownership interests in certain of these entities to the new combined entity of Wingfield and their  
23 interest in De. Pepper/7-UP Bottling Company of the West to the entity Foothills. As a result of  
24 such series of transactions and transfers, Wingfield became the sole or majority owner of a  
25 number of entities, including but not limited to Coyote Springs Investment LLC ("CSI"), Red  
26 Hawk Land Company, LLC, TRP, Western Electronics, Inc. (formerly known as Wild West  
27 Sound Company, Inc.) and Wingfield Springs Realty, LLC.

1           11.     Accordingly, on or around January 1, 2005, the parties executed the Operating  
2 Agreement of Wingfield Nevada Group Holding Company LLC ("Operating Agreement").  
3 Wingfield's business and affairs were to be managed by Whittemore and Thomas A. Seeno as  
4 Wingfield's managers (each a "Wingfield Manager"). As a Wingfield Manager, Whittemore was  
5 charged with directing, managing and controlling Wingfield's business and had "full and complete  
6 authority, power, and discretion to make any and all decisions and to do any and all things which  
7 the Managers shall deem to be reasonably required in light of [Wingfield's] business and  
8 objectives," subject to the limitations set forth in the Operating Agreement which required a  
9 majority vote of the Wingfield Managers.

10           12.     Pursuant to the terms of the Operating Agreement, Whittemore had a duty to  
11 perform his duties as a Wingfield Manager in good faith and in a manner he reasonably believed  
12 to be in Wingfield's best interest. At all times mentioned herein, Whittemore abused his position  
13 as a fiduciary and as an attorney by purposefully attempting to exonerate himself from illegal and  
14 improper actions through his control of Wingfield and the terms of the Operating Agreement.  
15 From February of 2007 through 2009, Whittemore exercised complete control over the financial  
16 books and records of Wingfield which control he misused and abused.

17           13.     In or around February of 2007, Albert D. Seeno, Jr., on behalf of his company,  
18 Alsan Nevada, LLC ("Alsan"), entered into discussions with Whittemore for the purchase of a  
19 portion of Whittemore's membership interest (held by LHLP) in Wingfield. The purchase was  
20 finalized in June of 2007 and Alsan became a member of Wingfield.

21           14.     On or around that same time, Whittemore, Thomas A. Seeno, and Albert D. Seeno,  
22 Jr., executed the First Amendment to the Operating Agreement (the "First Amendment") for  
23 Wingfield. The First Amendment deleted a section of the Operating Agreement that limited who  
24 could exercise the voting rights granted thereunder to the members.

25           15.     Thereafter, on or around November 9, 2009, Whittemore, Thomas A. Seeno, and  
26 Albert D. Seeno, Jr., executed the Second Amendment to the Operating Agreement (the "Second  
27 Amendment"). The Second Amendment changed the definitions of "Capital Members" and  
28 "Members," amended the management terms, added Albert D. Seeno, Jr. as a Wingfield Manager,

1 specified that Whittemore, Thomas A. Seeno, and Albert D. Seeno, Jr. jointly would manage  
2 Wingfield, amended the actions that required the unanimous consent of the parties, and  
3 specifically provided that any action requiring the expenditure of \$5,000 or more in a single or  
4 recurring transaction required the unanimous consent of all three Managers..

5 16. In or around May, 2010, Thomas A. Seeno and Albert D. Seeno, Jr., (collectively  
6 the "Seenos") and their representatives, began noticing discrepancies in Wingfield's financial  
7 books and records. Specifically, there were concerns about amounts charged to Wingfield  
8 accounts, material items not disclosed, debts that were written off, undervaluation of liabilities  
9 and a number of other expenditures that had not received approval from nor been disclosed to the  
10 Seenos. The Seenos began investigating the discrepancies, but were thwarted by, among other  
11 things, incomplete or inaccurate accounting and business records and by a lack of cooperation by  
12 Whittemore.

13 17. In or around September 2010, the Seenos confronted Whittemore with their  
14 suspicions. However, they quickly learned their suspicions, while well founded, had not even  
15 scratched the surface of Whittemore's fraud, deception and malfeasance. Confronted with some  
16 of the evidence uncovered regarding his potential fraudulent conduct, breach of fiduciary duties,  
17 and misdeeds, Whittemore confessed, admitted, and disclosed a multitude of acts that revealed  
18 years of theft, conversion, asset misappropriation, and breach of fiduciary duties to Wingfield.

19 18. On September 16, 2010, Whittemore himself prepared a written "confession" and  
20 discussed the same with the Seenos in the presence of a third party. Later that same day,  
21 Whittemore prepared a redacted and amended version of his "confession" and provided the same  
22 to Seenos' representatives.

23 19. Summarized, Whittemore's written confessions and statements made at that time  
24 admit to the following:

25 a. Wingfield money was misappropriated for unauthorized personal matters  
26 pursued by Whittemore.

27 b. Political donations and relationships used for Whittemore's advantage  
28 instead of Wingfield or the Seeno family.

1 c. Use by Whittemore of personal bank loan proceeds for lifestyle choices and  
2 to make other personal investments instead of putting 100% back into Wingfield, as represented  
3 by Whittemore.

4 d. Receipt by Whittemore of investment money that should have gone to  
5 Wingfield relating to Jeff Kirby.

6 e. Embezzlement of Wingfield money for personal meals, entertainment, and  
7 personal endeavors.

8 f. Intentional misappropriation of Wingfield aircraft for improper and  
9 unauthorized personal, family and political use.

10 g. Improper rent charges paid by Wingfield for Whittemore's house on  
11 Hickory Hollow Avenue in Las Vegas at Whittemore's direction.

12 h. Diversion of funds for the furnishing of Whittemore family members'  
13 homes.

14 i. Use of company funds to maintain and repair a Whittemore personal home  
15 on Hedgewood Drive in Reno.

16 j. Diversion of company funds into the construction, purchase and  
17 maintenance of a Whittemore family home on Boulder Glen Way in Reno.

18 k. Diversion of company funds for the operation and maintenance of a  
19 Whittemore personal home in Glenbrook, Lake Tahoe.

20 l. Diversion of company funds for the operation and maintenance of a  
21 Whittemore personal home referred to as the Glenbrook Inn, Lake Tahoe.

22 m. Diversion of corporate funds for the purchase or lease of numerous vehicles  
23 for Whittemore, Annette, and other Whittemore family members.

24 n. Donations of company assets consisting of elk tags given by Whittemore,  
25 without consent, to Michael Lee, Pat Nichols, Debi Langston and Roger Primm.

26 o. Diversion and donations of equipment and assets from Wild West Sound  
27 Company, Inc., a subsidiary of Wingfield, to the Whittemore Peterson Institute ("WPI"), his  
28 family, friends and personal causes, without consent.

- 1 p. Diversion of funds disguised as "donations" to WPI, without consent.
- 2 q. Allowing WPI's improper and unauthorized use of the company aircraft.
- 3 r. Improper diversion of corporate funds to conduct political fund raisers for
- 4 Whittemore's personal benefit.
- 5 s. Improper and abusive use of Wingfield personnel for Whittemore family
- 6 use and WPI purposes.
- 7 t. Diversion of funds for private parties.
- 8 u. Hosting improperly funded and subsidized political parties for
- 9 Whittemore's sole benefit.
- 10 v. Improper financial dealings involving corporate funds with Whittemore
- 11 personal friends.
- 12 w. Diversion of corporate funds for personal expenses related to box seats at
- 13 Reno Aces.
- 14 x. Diversion of corporate funds for a baseball player personally sponsored by
- 15 Whittemore.
- 16 y. Payment of legal and consulting fees from corporate funds where such
- 17 consulting and legal services were for strictly personal Whittemore matters.
- 18 z. Diversion of funds paid by Wingfield to business enterprises of Richard
- 19 Bunker for Whittemore's personal benefit.
- 20 aa. Unauthorized payments or use of corporate funds and assets for friends and
- 21 relatives and personal endeavors unrelated to company business.
- 22 bb. Diversion of corporate funds to furnish Whittemore's children's homes and
- 23 to provide other unauthorized gifts and contributions to lifestyle of Whittemore's immediate
- 24 family.
- 25 20. Whittemore's actions included, but were not limited to, receiving investment
- 26 money belonging to Wingfield, using Wingfield and its assets to provide personal favors to
- 27 friends and family, providing funds to friends, family and outside business ventures, side deals
- 28 with Wingfield employees and business associates which he failed to disclose to the Seenos,



1 intentionally refusing to properly document transactions and agreements in order to deceive the  
2 Seenos' directors and/or employees while controlling and concealing information from them and  
3 the Seenos and giving himself additional compensation without the knowledge or consent of the  
4 Seenos.

5 21. The full extent of Whittemore's misdeeds is not yet fully known and new acts of  
6 misconduct are still being uncovered. However, at this time, the specific acts of misconduct in  
7 addition to and in supplement of those admitted to by Whittemore in his "confession" as  
8 summarized hereinabove, of which Wingfield is aware and valued in tens of millions of dollars,  
9 include:

10 a. Wingfield owns a fractional ownership interest with Avantair, an aircraft  
11 fractional ownership company. Whittemore had Wingfield spend in excess of \$1,200,000 to  
12 acquire these fractional interests. Between 2004 and 2010, Whittemore used flights from this  
13 fractional ownership for family, friends, and others and charged these flights to Wingfield without  
14 reimbursing Wingfield. In total, Whittemore owes the company approximately \$2,179,898.19 for  
15 these flights. To date, Whittemore has not paid any of the amounts owed.

16 b. Whittemore, and his wife, Defendant Annette Whittemore, who represented  
17 herself to the public as an owner of Wingfield with management authority, also allowed WPI, an  
18 entity in which Annette Whittemore serves as President, to use the flights with Avantair without  
19 documenting such use and without reimbursing Wingfield for the costs incurred. In total,  
20 approximately \$346,546.73 should have been paid by WPI for use of the Avantair flights. To  
21 date, neither Whittemore, Annette Whittemore, nor WPI have paid any of the amounts owed or  
22 interest thereon.

23 c. The Whittemores' favors to WPI were not limited to free flights. They also  
24 ensured that WPI benefitted from Wingfield's services as well as outside perks. For example,  
25 Whittemore and Annette Whittemore directed various Wingfield employees to perform work for  
26 WPI while on Wingfield's payroll. However, the Whittemores never properly accounted for these  
27 hours and failed to reimburse Wingfield for the use of its employees' time on non-Wingfield  
28 related work. Whittemore acknowledges a part of this in his confession, stating that "WNG

1 personnel and services [were] not properly accounted for, terminated when appropriate, or  
2 services given without consent to the Whittemore family and WPI (Angee, Mike, Rox, Debi and  
3 Katie)". However, Whittemore's list of employees only scratches the surface of the pattern of  
4 Whittemore, his wife, family, and WPI use of the services of Wingfield employees for their own  
5 personal benefit.

6 d. Whittemore's personal favors for WPI at Wingfield's expense continued  
7 with outside perks as well. For example, in or around 2006, Wingfield retained an outside agency  
8 to assist with lobbying, public relations, and marketing for Wingfield and various Wingfield  
9 entities, including but not limited to CSI. This agency charged Wingfield a \$70,000 monthly  
10 retainer and provided a breakdown of how the retainer was allocated monthly to the various  
11 Wingfield entities. From February 2005 to July 2010, Wingfield and its affiliates paid this agency  
12 a total of approximately \$3,986,504.16. Upon review of the records, Wingfield has discovered  
13 that numerous hours were allocated against the Wingfield retainer for work performed for WPI  
14 and the Whittemores' personal family foundation. Upon information and belief, at Whittemore's  
15 direction, this agency was told by Wingfield's Director of Marketing, Angelina Wyss-Gordon,  
16 who was also in charge of marketing for WPI, that any and all hours for WPI work should not be  
17 billed to WPI and instead should be billed to Wingfield. The Seenos did not consent to any  
18 retainer hours being used for non-Wingfield related work nor did they approve Wingfield's  
19 payment of same.

20 e. Upon information and belief, Whittemore also knowingly allowed his wife,  
21 Defendant Annette Whittemore, to charge compensation and other employment expenses of WPI  
22 staff to Wingfield without the knowledge or consent of the Seenos. For example, Defendant  
23 Annette Whittemore, who lacked management authority under Wingfield, mandated to the  
24 Wingfield accounting staff that 75% of the salary of Dr. Judy Mikovitz, a research scientist and  
25 employee of WPI, would be charged to and paid by Wingfield. In addition, Defendant Annette  
26 Whittemore further mandated, as documented in Wingfield accounting records, that Dr. Mikovitz'  
27 relocation expenses of approximately \$42,000 would also be charged to and paid by Wingfield.  
28 Based on information and belief as evidenced by expense reports and other records of Wingfield

1 currently under review, Wingfield and the Seenos further allege that additional employment  
2 expenses of others, all of whom were employed by or provided consultant services to WPI, were  
3 improperly charged to and paid by Wingfield. While further investigation by Wingfield and the  
4 Seenos is ongoing, it is believed that the total of all such sums improperly charged to Wingfield  
5 for WPI employees, at the direction of the Whittemores, will total in excess of tens of thousands  
6 of dollars. Such sums were charged to Wingfield without the knowledge or consent of the Seenos  
7 and remain unpaid to Wingfield.

8 f. Whittemore also made sure to take care of himself – very well. Between  
9 March 2007 and June 2007, Whittemore withdrew approximately \$450,000 in additional payroll  
10 and owner draws from Wingfield's accounts for himself without authorization, consent or  
11 disclosure to the Seenos.

12 g. Furthermore, without the knowledge, approval or consent of the Seenos  
13 between 2003 and 2010, Whittemore took a salary from Wingfield in excess of what the Seenos  
14 agreed to pay. In total, Whittemore took in excess of \$900,000 over what the Seenos agreed  
15 upon.

16 h. Whittemore also made sure to take care of himself – contractually.  
17 Whittemore, as the manager of CSI and as its attorney, crafted provisions in the agreements  
18 between CSI and the master builder of that project, Pardee Homes of Nevada ("Pardee"), that  
19 prohibited assignment of the agreement by CSI to any entity in which he was not the manager. In  
20 2009, he further attempted to protect his interests to the detriment of his partners by agreeing, on  
21 behalf of CSI, with the Nicklaus Design Group ("Nicklaus") that certain fees would not be due  
22 Nicklaus if property was transferred to an entity owned or controlled by Whittemore, but would  
23 specifically be due if property was transferred to either of the Seenos or the son of Albert D.  
24 Seeno, Jr., who has no ownership interest in Wingfield. These agreements were made without the  
25 informed consent of the Seenos and, upon information and belief, were designed solely to benefit  
26 Whittemore, and potentially his own son (who also was a real estate developer), at the expense of  
27 the Seenos to whom he owed a fiduciary duty.  
28

1           i.       In addition to all of the extra amounts Whittemore took for himself without  
2 the knowledge, approval or consent of the Seenos, Whittemore also failed to give Foothills fees  
3 that he collected that should have gone to Foothills. For example, Whittemore admitted he  
4 received legal and/or consulting fees from Dr. Pepper/7-Up Bottling Company of the West in  
5 which Foothills is a 30% shareholder (and whose President, Ed Frazer, Whittemore has entered  
6 into numerous personal transactions with), that should have been paid to Foothills. Upon  
7 information and belief, these fees total approximately \$100,000. However, instead of giving these  
8 funds to Foothills, Whittemore kept them for himself.

9           j.       Whittemore's misappropriation of funds was not limited to direct debits  
10 from Wingfield accounts. Whittemore also withdrew hundreds of thousands of dollars in cash  
11 from the Company which he instructed Wingfield employees to charge to Company meals and  
12 entertainment expenses. The Seenos had no knowledge of nor did they consent to any of these  
13 expenses. In total, between January 2004 through June 2010, Whittemore took cash in excess of  
14 \$600,000 in meals and entertainment to Wingfield, without appropriate accounting or  
15 reimbursement. At Whittemore's instruction, Wingfield employees always kept approximately  
16 between \$5,000 to \$10,000 in cash in \$100 denominations in a safe in the office from which  
17 Whittemore withdrew these amounts. Employees were discouraged by Whittemore from  
18 questioning the propriety of these transactions or requiring documentation for the company's  
19 records reflecting the use and purpose of these funds. In some months, Whittemore withdrew up  
20 to \$50,000 in one month's time from the safe. In 2006 Whittemore withdrew approximately  
21 \$315,000; in 2007 Whittemore withdrew approximately \$115,000; in 2008 Whittemore withdrew  
22 approximately \$80,000; in 2009 Whittemore withdrew approximately \$60,000; and in 2010  
23 Whittemore withdrew approximately \$16,000. All of these funds were purported to be  
24 reimbursements to Whittemore for business entertainment and were taken without appropriate  
25 accounting, reimbursement or proper reporting to the taxing agencies and without the prior  
26 knowledge or consent of the Seenos.

27           k.       Whittemore made sure that friends, family and political and lobbying  
28 associates enjoyed his unauthorized expenses as well. Indeed, Whittemore used the Wingfield-

1 owned restaurant at Red Hawk golf course in Sparks, Nevada ("Red Hawk") to cater a multitude  
2 of extravagant, non-company related private parties, family dinners, and other family events as  
3 well as political and campaign fundraisers. Whittemore's usage of Red Hawk included the use of  
4 Red Hawk and Wingfield employees, without reimbursing Wingfield. One such event was his  
5 daughter's wedding, which included five-star food and wine tastings, bridal showers and a  
6 rehearsal dinner leading up to the wedding. These events included the purchase of tuxedo  
7 uniforms for Red Hawk wait-staff, special china dinnerware named after his daughter, special  
8 custom lighting, exterior and interior alterations to Red Hawk premises and many other purchased  
9 items and extraordinary costs and expenses which, except for a meager \$10,000 paid by  
10 Whittemore, were all paid for by Wingfield at Whittemore's direction. Wingfield's expense for  
11 this affair totaled approximately \$200,000 which was charged to Wingfield without the Seenos'  
12 knowledge, approval or consent. Other of Whittemore's personal events were held on major  
13 holidays using the senior staff of the Food & Beverage Department of Red Hawk thereby  
14 depriving Red Hawk the opportunity to provide catering services to regular paying customers.  
15 Many of Whittemore's parties and events, particularly those for political candidates and associates  
16 of his lobbying activities, were also held at his personal residences in Lake Tahoe and Reno  
17 which resulted in Red Hawk and Wingfield staff performing errand and catering services off-site,  
18 again depriving Red Hawk of the opportunity to properly staff its on-site catering services for  
19 regular paying customers and diverting Wingfield employees from performing company related  
20 work, all for Whittemore's personal benefit. When events arranged by Whittemore were actually  
21 paid for, he ensured that various personal friends and individuals received a generous discount of  
22 approximately 35% or more, again without the Seenos' knowledge, approval or consent and in  
23 violation of established company policy. These activities undertaken by Whittemore were done  
24 during years in which Red Hawk was losing in excess of \$3,000,000 per year on its food,  
25 beverage, and golf course operations. In total, Whittemore should have paid in excess of  
26 \$572,000 for these banquets and events, which amount is still owing and unpaid to Wingfield.

27 1. Whittemore and Annette Whittemore made sure that WPI enjoyed the  
28 unauthorized banquets and catering discounts as well. During the same years in which

1 Whittemore ensured that various friends and family received generous discounts, the Whittemores  
2 did the same for WPI and, in addition, donated numerous company assets to WPI fund raisers, all  
3 without the knowledge or consent of the Seenos. Wingfield is still in the process of researching  
4 the total amounts WPI should have paid, which are in excess of \$157,000.

5 m. Whittemore's entertainment continued on the golf course, as Whittemore  
6 also allowed friends and family to play numerous rounds of golf at the Company's Red Hawk and  
7 Coyote Springs golf courses without compensating Wingfield, and without the Seenos'  
8 knowledge, approval or consent.

9 n. In addition to the extra compensation and other perks, Whittemore charged  
10 Wingfield a monthly "rent" for Whittemore's use of his own Las Vegas home. Upon information  
11 and belief, on or around December 4, 2003, Whittemore acquired certain real property located at  
12 245 Hickory Hollow Avenue, Las Vegas, Nevada bearing Assessor's Parcel No. 177-09-512-032  
13 ("Hickory Hollow Property"). On or around November 20, 2006, Whittemore conveyed partial  
14 ownership of the Hickory Hollow Property to Zephyr Cove Properties, Inc., an entity Whittemore  
15 owned with some of his family members. Despite having purchased the Hickory Hollow Property  
16 himself for his use while he was in Las Vegas and owning it together with his family members,  
17 from November 2006 through August 2010, Whittemore charged Wingfield \$154,000 in "rent"  
18 for the Hickory Hollow Property including a lump sum payment of \$41,000 in November of  
19 2006. When the Hickory Hollow payments were discovered by the Seenos in June 2009  
20 Whittemore claimed they were payments for a rental house he had in Las Vegas and deliberately  
21 concealed the fact that he owned the home. Not until the Seenos themselves discovered that he  
22 and his family actually owned the home did Whittemore admit that fact. In addition, Whittemore  
23 had one of Wingfield's affiliates pay for some of the decorating costs of the Hickory Hollow  
24 house in the amount of \$58,666.64, as well as paying Whittemore's personal assistant to care take  
25 and upkeep the Hickory Hollow Property, all without the knowledge or consent of the Seenos.

26 o. In or around June 2009, the Seenos hired Whittemore to perform consulting  
27 work for another entity owned by the Seenos unrelated to Wingfield. Pursuant to the agreement  
28 between Whittemore and the Seenos, Whittemore would bear all of the costs of his sub-

1 consultants. His compensation would be a percentage of the benefit recovered by the Seenos as a  
2 result of his efforts. However, from March of 2009 through August of 2010, Whittemore  
3 instructed Wingfield employees to charge these sub-consultant costs, which totaled \$572,693.60,  
4 to Wingfield without disclosing this to the Seenos. Further, Whittemore misled the Wingfield  
5 employees as to what the costs were for.

6 p. In 2004 through 2009, Whittemore hired Wingfield's CPA firm to perform  
7 work for him on his personal tax returns and tax returns of his separate entities which are owned  
8 by Whittemore outside of Wingfield. However, instead of paying the tax consultant for such  
9 work, Whittemore instructed the tax consultant to bill Wingfield for his work. The amounts  
10 improperly charged to WNG are estimated to be \$140,000. Whittemore never sought the  
11 approval or consent of the Seenos to bill these amounts to Wingfield.

12 q. In January 2004, as part of Whittemore's contribution to form Wingfield,  
13 he conveyed 50% of his ownership interest in Argus Media, Inc. Upon information and belief,  
14 Whittemore's total investment in Argus Media, Inc. amounted to \$207,000. At Whittemore's  
15 direction, Wingfield wrote-off the investment in 2006. However, Wingfield has recently  
16 discovered that, in or around November 2006, Marketing Results Group International ("MRGI"),  
17 the successor entity to Argus Media, Inc., contacted Whittemore, in writing, regarding a potential  
18 merger of MRGI. In such correspondence, MRGI advised Whittemore that it would honor  
19 Wingfield's prior investment and advised Whittemore that, upon such merger or acquisition,  
20 Wingfield's interest in MRGI would be valued at \$2,280,000. This correspondence was never  
21 shared with the other Wingfield owners. In or around June 2010, MRGI merged with Cirrus  
22 Partners. To date Wingfield has not received any amounts from this investment. Upon  
23 information and belief, Whittemore incorrectly wrote-off the investment amount when it had  
24 asserted substantial value or retained the investment amount for himself.

25 r. In 2004, Whittemore directed a Wingfield employee to look for potential  
26 ranch properties with water rights that would benefit Wingfield's Coyote Springs development.  
27 The employee found that the owner ("Seller") of certain real property located in Lincoln and  
28 White Pine Counties, known as Geyser Ranch, (hereinafter "Geyser Ranch") was interested in

1 selling his property. In or around July 2004, Whittemore had one of the Wingfield companies,  
2 TRP, also owned then by Whittemore and Tom Seenos, engage a real estate agent, selected by  
3 Whittemore, for the acquisition of Geyser Ranch. Unbeknownst to Seenos, a principal of the real  
4 estate agency selected by Whittemore was also an employee and director of Avantair (the aircraft  
5 fractional interest company referred to above). With the real estate agent's assistance, on or  
6 around September 22, 2004, TRP, formerly known as TNSS Nevada Acquisition, LLC, executed  
7 an Offer and Acceptance Agreement for the purchase of Geyser Ranch ("Purchase Agreement")  
8 from the Seller. Despite that Wingfield's employee had found Geyser Ranch, pursuant to the  
9 terms of the Purchase Agreement, the real estate agent would receive a commission equal to 10%  
10 of the total sales price of Geyser Ranch of \$34,000,000. Instead of receiving the full commission  
11 of \$3,400,000, at the time of the purchase, the real estate agent received \$600,000 from the Seller  
12 at the close of escrow and the remaining commission was to be paid in proportional installments  
13 at the time principal payments were received by the Seller on the Seller's carry-back note.  
14 However, the real estate agent agreed to split the commission for Geyser Ranch with Wingfield's  
15 affiliated entity, Wingfield Springs Realty ("WSR"), with WSR receiving 45% of the gross  
16 commission. The amounts owed were never fully paid to WSR. Instead, upon information and  
17 belief, Whittemore himself received approximately \$300,000 in consulting fees from the real  
18 estate agent which fees should have been paid to Wingfield and were never disclosed to the  
19 Seenos. Upon information and belief, Whittemore encouraged TRP to hire the real estate agent in  
20 order to receive the "consulting fees" as a kickback. In addition, Whittemore ensured that his  
21 family was well taken care of in this transaction as well, by directing the real estate agent to pay  
22 Whittemore's sister-in-law, Sonja Fortier, \$60,000 of the commission despite the fact that  
23 Ms. Fortier was, at that time, on the payroll of Wingfield's affiliate and performed very little  
24 services in this transaction. Within six months of receiving such commission, Whittemore and  
25 Ms. Fortier purchased a Las Vegas condominium together. As a result of the foregoing misdeeds,  
26 TRP believes the amount paid for Geyser Ranch was above and beyond the amount that should  
27 have been paid for the property. Whittemore did not disclose these consulting or kickback fees to  
28 TRP and has not reimbursed TRP for the same.



1           s.       As part of the Geyser Ranch acquisition, TRP also acquired elk tags valued  
2 at \$15,000 per tag. Without the knowledge, approval or consent of the Seenos, Whittemore gave  
3 away some of the elk tags to charities and friends. Whittemore has not reimbursed TRP for the  
4 costs of these elk tags. Further, Whittemore failed to provide statutory income tax reporting  
5 relating to these transactions.

6           t.       Whittemore's favors for friends and family continued throughout the years  
7 in the form of charitable donations made by Whittemore from Wingfield funds. Wingfield is still  
8 reviewing the full amount of donations provided by Whittemore and does not yet have a full  
9 accounting of the amounts donated without the Seenos' knowledge, approval or consent.  
10 Nevertheless, Whittemore has admitted to making certain donations that should have been paid by  
11 him personally instead of through Wingfield. In addition, some of these donations were made by  
12 Whittemore to charitable organizations tied to companies for whom Whittemore acted as a  
13 lobbyist and received substantial lobbying fees. These donations were made without the  
14 knowledge or consent of the Seenos and the fact that Whittemore personally received large fees  
15 from the donee's founder or affiliate was not disclosed by Whittemore to the Seenos.

16           u.       Whittemore's favors also included substantial write-offs of amounts owed  
17 to Wingfield by Whittemore's personal friends and business contacts. Whittemore made loans of  
18 hundreds of thousands of dollars to his personal friends from Wingfield accounts. Whittemore  
19 never sought the approval or consent of the Seenos for these personal loans, in some cases never  
20 documented the existence of the loans, never collected the amounts loaned, failed to disclose the  
21 write-offs, and failed to reimburse Wingfield for the same. Not only did Whittemore fail to  
22 advise the Seenos of these write-offs, he failed to advise the Wingfield staff as well and therefore  
23 such write-offs were not properly reported to the taxing agencies. One example of Whittemore's  
24 intentional deceit and malfeasance with respect to such loans to personal friends is the 2004 loan  
25 of \$250,000 Whittemore authorized Wingfield to make, through its affiliated entity CSI, to a  
26 personal friend of Whittemore's and a principal of a public relations agency with whom Wingfield  
27 was doing substantial business. That loan was never documented or secured nor did Whittemore  
28 make the statutory incoming reporting for that loan. When the Seenos discovered this loan and

1 made inquiry they learned that Whittemore had directed Wingfield staff to write-off the  
2 outstanding loan amount in May, 2007 – just one month before Alsan made its first payment to  
3 Whittemore for its investment purchase in Wingfield. This example serves to illustrate the  
4 fraudulent misrepresentations made by Whittemore to the Seenos with respect to assets, liabilities  
5 and undisclosed contingencies of Wingfield and its affiliated entities.

6 v. At Whittemore's direction, Wingfield loaned funds of \$358,895 to an entity  
7 named Uniforms Express. When the Seenos discovered the existence of the loan, Whittemore  
8 agreed to reimburse Wingfield the amount of the investment. Upon information and belief, since  
9 such agreement with the Seenos was made, Whittemore acquired a substantial ownership interest  
10 in Uniforms Express. Wingfield was not made a signatory to the stock purchase agreement and  
11 Whittemore, through his entity LHLP, attempted to give away Wingfield's rights and instructed  
12 Uniforms Express to make payments on the loan to him directly, rather than to Wingfield. Yet,  
13 rather than paying Wingfield back, Whittemore has retained such monies and invested additional  
14 funds in Uniforms Express. At Whittemore's direction, \$200,000 of the funds loaned by  
15 Whittemore to Uniforms Express came from Wingfield by way of an increase to Whittemore's  
16 company receivable account, thereby resulting in a total principal loan amount by Wingfield to  
17 Uniforms Express of \$558,895. Since his original promise to the Seenos to reimburse Wingfield,  
18 Whittemore has on several occasions in 2010 and 2011 reiterated his promise to pay back all  
19 funds loaned by Wingfield to Uniforms Express or, alternatively, to assign his stock in Uniforms  
20 Express to Wingfield. However, Whittemore has failed to reimburse Wingfield for the loaned  
21 amounts which, with interest, exceed \$800,000 and, alternatively, he has failed to assign his stock  
22 in Uniforms Express to Wingfield. To the contrary, on further information and belief, Wingfield  
23 has learned that Whittemore is, once again, making an independent deal with Uniforms Express to  
24 the detriment of Wingfield and the Seenos. Such pending deal involves the repurchase of  
25 Whittemore's stock by Uniforms Express and does not include payment by Whittemore or  
26 Uniforms Express of the amounts loaned by Wingfield. Through Whittemore's deceit,  
27 misrepresentations and manipulative and self-tactics, Wingfield has been damaged in an amount  
28 in excess of \$800,000.

1           w.       Whittemore also made sure that he used the services of Wingfield in  
2 funding the construction of his home, with no upside to Wingfield, and failed to reimburse  
3 Wingfield for amounts incurred.

4           x.       Another example of Whittemore's practice of taking care of his friends  
5 before his partners is his sponsorship of the pro golfer Rich Barcelo ("Barcelo"). Upon  
6 information and belief, Whittemore entered into a sponsorship agreement with Barcelo in 1999  
7 wherein Whittemore would front Barcelo's professional and personal living, housing and travel  
8 expenses with the expectation that such monies would be returned from Barcelo's tournament  
9 winnings. During the course of Whittemore's affiliation with Wingfield, Whittemore gave  
10 Barcelo hundreds of thousands of dollars while in debt to the Seenos. Whittemore claims that the  
11 sponsorship agreement has never been reduced to writing and in March of 2011 advised the  
12 Seenos that he had stopped spending or contributing monies on Barcelo's behalf in the summer of  
13 2010. However, upon information and belief, Whittemore continues to take care of Barcelo to the  
14 detriment of the Seenos while in massive debt to the Seenos. In addition, at Whittemore's  
15 direction, approximately \$58,000 of Barcelo's sponsorship costs were charged to one of the  
16 Wingfield affiliated entities, Coyote Springs Golf Operations, LLC. This was done by  
17 Whittemore without the approval, knowledge or consent of the Seenos.

18           y.       Another blatant example of Whittemore's diversion of company funds for  
19 his personal benefit is the construction of his and Defendant Annette Whittemore's former  
20 residence located at 11000 Boulder Glen Way in Reno, Nevada ("Boulder Glen"). In 2006,  
21 Whittemore initiated the architectural design and construction of a "spec house" on a lot owned  
22 by Wingfield in the Pecetti Ranch Estates subdivision in Reno known as Boulder Glen under the  
23 guise that Wingfield would benefit from the sale proceeds upon the ultimate sale of the residence  
24 to an unrelated third party. Wingfield paid all design and construction costs for Boulder Glen  
25 totaling approximately \$3,000,000. Among other things, these costs included the purchase by  
26 Whittemore's contractor, at Wingfield's expense, of capital equipment such as a camera, service  
27 trailer, and other construction equipment that were never transferred to Wingfield. During the  
28 course of construction, and unbeknownst to the Seenos, Whittemore personally retained the

1 services of a high-end, high-cost interior decorating firm to design, purchase and install in the so-  
2 called "spec house" all furniture, fixtures, equipment and decorating features. All interior design  
3 and decorating services were personally supervised and directed by Whittemore and Defendant  
4 Annette Whittemore and were completed to their personal tastes and standards including, but not  
5 limited to, extravagant shopping trips to high-end home furnishing retailers in the San Francisco  
6 Bay area. Indeed, unknown to the Seenos, the decorating plans identified the house as the  
7 "Whittemore" residence although Whittemore described the house to the Seenos as a "spec"  
8 house. These interior design and decorating services totaled just short of \$1,000,000 and were  
9 paid by Whittemore and Defendant Annette Whittemore personally. In April 2008, Whittemore,  
10 as a co-manager of Wingfield and without disclosure to the Seenos, conveyed legal title to  
11 Boulder Glen to himself and his wife, Defendant Annette Whittemore. In April 2008,  
12 Whittemore paid the sum of approximately \$2,200,000 to Wingfield as a partial reimbursement  
13 for architectural and construction costs incurred by Wingfield, leaving a current and unpaid  
14 balance of approximately \$1,276,000, plus interest, due, owing and unpaid to Wingfield. In late  
15 2010 when the Seenos became aware of this egregious misuse of company funds, Whittemore and  
16 Defendant Annette Whittemore conveyed legal title to Boulder Glen back to Wingfield.  
17 Concurrent with that conveyance Wingfield became burdened with the mortgage on the property  
18 and has been and continues to pay approximately \$14,000 per month towards the mortgage,  
19 utilities, maintenance and upkeep of the property. Wingfield has been and continues its efforts to  
20 sell Boulder Glen on the open market. The appraised value and listed price of Boulder Glen are  
21 well below the combined debt owing to both the mortgage lender and Wingfield. The lengthy  
22 duration of Whittemore's deceit and concealment with respect to his true intent to load up  
23 construction and design costs at Wingfield's expense and occupy the property as his personal  
24 residence caused Wingfield to miss the opportunity to sell the property at the top of the real estate  
25 market. In addition to ongoing monthly expenses incurred by Wingfield, Wingfield believes it  
26 will suffer a substantial net loss upon eventual sale of Boulder Glen after payoff of the existing  
27 mortgage and payment of real estate commissions, escrow fees and similar costs of sale.

1           z.       Whittemore not only diverted company funds for his personal use,  
2 enjoyment and benefit and that of his family and friends, but he also "double dealt" his partners,  
3 the Seenos, in company transactions. For example, upon information and belief and upon  
4 representations made by Whittemore, an entity known as the St. Thomas Trust, owned by Richard  
5 Bunker ("Bunker") and Whittemore, was a minority "profits" owner in CSI. In 2004, concurrent  
6 with TNSS' purchase from Whittemore entities of ownership interests in various Wingfield  
7 entities, Whittemore and TNSS purchased such minority interest held by the St. Thomas Trust for  
8 \$13,500,000. On information and belief, the Seenos now believe this 2004 transaction was a  
9 second or "straw man" transaction with St. Thomas Trust as evidenced by a March 13, 1997  
10 Promissory Note payable by CSI to St. Thomas Trust in the amount of \$6,000,000. Upon  
11 repeated inquiry Whittemore has refused to disclose the nature or origins of this first transaction  
12 and, therefore, the validity of the \$13,500,000 transaction in 2004 is called into question.

13           i.       The 2004 purchase price purportedly negotiated between  
14 Whittemore and Bunker for the purchase of Bunker's alleged remaining interest in the St. Thomas  
15 Trust interest by TNSS and Whittemore was \$13,500,000. The terms of payment of the  
16 \$13,500,000.00 were also purportedly negotiated by and between Whittemore and Bunker. The  
17 \$13,500,000 debt was never documented by Whittemore. Subsequently, in 2007 when Alsan  
18 purchased interests in various Wingfield entities from Whittemore or his business entities and  
19 based upon Whittemore's representations that the \$13,500,000 was a valid debt of the company,  
20 Alsan assumed a proportionate obligation for repayment of the then current balance of the St.  
21 Thomas Trust indebtedness.

22           ii.       Based upon representations of Whittemore, Whittemore  
23 periodically renegotiated the payment terms of the St. Thomas Trust debt through verbal  
24 discussions with Bunker. The Seenos were not invited to participate in these negotiations. One  
25 such renegotiation was that beginning in approximately May of 2007, monthly installments of  
26 \$100,000 would be paid to St. Thomas Trust. Wingfield made such monthly payments and  
27 allocated the payments in proportion to the ownership interests of Whittemore and the Seenos.  
28 Wingfield made each payment, in good faith, as and when each payment came due based upon

1 Whittemore's representation and reliance by Seenos on Whittemore's fiduciary obligations to his  
2 partners.

3                   iii.       The Seenos have repeatedly requested documentation from  
4 Whittemore evidencing the valuation of the buy-out purchase price of \$13,500,000 and further  
5 evidencing the indebtedness and repayment arrangements as originally negotiated and as amended  
6 from time to time by Whittemore and Bunker. Whittemore has failed and/or refused to provide  
7 such requested documentation to the Seenos.

8                   iv.       In approximately November of 2010, the Seenos learned that  
9 Whittemore personally, had signatory control of the St. Thomas Trust bank account and had been  
10 disbursing to himself, or had other authorized account signatories disburse to him, \$75,000 of  
11 each of the \$100,000 monthly payments that Wingfield had been making to St. Thomas Trust.  
12 Moreover, on information and belief, the Seenos believe that of the total payments made to St.  
13 Thomas Trust, Whittemore diverted \$1,900,000 for his own account and benefit without the  
14 Seenos' knowledge, consent, or approval.

15                   v.       On or about January 19, 2011, and as a further example of  
16 Whittemore's self-serving and double dealing tactics, Whittemore disclosed to the Seenos that  
17 Whittemore had negotiated a separate arrangement with Bunker whereby Whittemore's  
18 proportionate obligation to pay Bunker had been reduced by fifty percent (50%) or more.  
19 Whittemore refused and continues to refuse to disclose to the Seenos the specific terms of his  
20 renegotiated arrangement with Bunker. As further evidence of Whittemore's malfeasance, on or  
21 about January 19, 2011, Whittemore offered to the Seenos and their legal counsel to negotiate  
22 with Bunker a buy-out of Wingfield's remaining obligation to St. Thomas Trust at a \$200,000  
23 discount on the \$1,100,000 balance due. Upon information and belief, Whittemore intended to  
24 keep all or a significant portion of that proposed final payment for himself.

25                   vi.       After discovering Whittemore's devious acts, the Seenos have been  
26 left in a position where their rights and obligations, if any, and any benefits resulting from the St.  
27 Thomas Trust transactions are unclear and in question.

28

1           aa.     Another means by which Whittemore diverted company funds for his own  
2 benefit and for the benefit of his family involves the purchase and/or leasing of automobiles and  
3 golf carts from Lee Bros. Leasing, Inc., a Nevada automobile dealership ("Lee Bros."). One such  
4 example of Whittemore's improper diversion of company funds to Lee Bros. involved  
5 Whittemore's purchase of a 2004 Land Rover for his wife, Defendant Annette Whittemore, from  
6 Lee Bros. In early 2005, Whittemore and Lee Bros. entered into an arrangement whereby Lee  
7 Bros. would repurchase the Land Rover and Whittemore would then lease the Land Rover back  
8 from Lee Bros. in the name and at the expense of Wingfield. On information and belief,  
9 Whittemore received \$75,000 from Lee Bros. for its repurchase of the Land Rover. Beginning in  
10 February of 2005 and continuing through April of 2008, Whittemore caused Wingfield to pay  
11 lease payments to Lee Bros. for Defendant Annette Whittemore's Land Rover totaling  
12 approximately \$61,709.53 which amount is still unpaid and owing by Whittemore or Defendant  
13 Annette Whittemore to Wingfield. A second example of special arrangements between  
14 Whittemore and Lee Bros. involving the improper use of company funds is the leasing of golf  
15 carts by Whittemore from Lee Bros. for use by Whittemore at his Glenbrook residence in  
16 Lake Tahoe, California. Plaintiffs are continuing their investigation into Whittemore's diversion  
17 and misuse of company funds for these personal leaseings and whether Whittemore and his family  
18 members were provided favorable lease or purchase rates at the expense of Wingfield.

19           bb.     Another example of Whittemore's practice of taking from the Seenos to  
20 give to his friends and family, involves Whittemore's brother, David Whittemore, an attorney  
21 formerly with Lionel, Sawyer & Collins in Las Vegas, Nevada, performing legal services, at  
22 Whittemore's direction, for the Coyote Springs development, in which Wingfield is the majority  
23 owner. Upon information and belief, David Whittemore lost or surrendered his law license.  
24 Between November 2005 and July 2006, he charged Wingfield \$121,093.75 in legal or consulting  
25 fees despite the fact that, on information and belief, he no longer had an active, valid law license.  
26 This practice was authorized and directed by Whittemore, without advising the Seenos, for the  
27 sole purpose of providing a personal benefit to his brother at the expense of his partners.  
28

1 cc. One of the Wingfield affiliated entities, Wild West Sound Company, Inc.  
2 ("Wild West"), in which Defendant Annette Whittemore was the President, was a tenant in a  
3 building located on South Virginia Street in Reno, Nevada. Without the knowledge or consent of  
4 the Seenos, the Whittemores moved Wild West to another building located at 8060 Double R  
5 Blvd., Reno, Nevada, and Wild West commenced payment of rent to the landlord of the new  
6 building. However, as further evidence of the Whittemore's practice of concealing information  
7 from the Seenos and hiding of assets, the Whittemores failed to advise the Seenos that the  
8 Whittemores themselves were the owners of 8060 Double R Blvd. In fact, the Whittemores  
9 acquired the property in the name of a new entity called Damonte View, LLC, and designated  
10 Garrett Gordon, an attorney with Lewis & Roca, in Reno, Nevada (who was performing legal  
11 services for Wingfield at that time), as their agent for service of process, using Mr. Gordon's  
12 home address, not work address, as the company's address. Whittemore did not admit this until  
13 confronted. In addition, Whittemore attempted to broker a transaction to sell Wild West to one of  
14 its employees for \$50,000. Such offer would have been for far less than the inventory and assets  
15 of the company and would have resulted in the owners' inability to receive tax benefits associated  
16 with a net operating loss carry forward in excess of \$1,000,000 if they just sold the inventory and  
17 shut-down the business. Had the Seenos not stopped the Whittemore proposed transaction from  
18 occurring, the only parties benefiting would have been the buyer to the detriment of the Seenos in  
19 excess of \$350,000.

20 dd. In early 2009, the Seenos advised Whittemore that they believed it was in  
21 the best interests of Wingfield to sell its interest in an entity called King 888, the manufacturer of  
22 an energy drink product. Whittemore advised the Seenos that the other owner of the King 888  
23 entity would purchase the Wingfield interest at a set price to be paid to Wingfield over time. At  
24 no time did Whittemore advise the Seenos that this was essentially a "double escrow" and that he  
25 and his family would be purchasing that same interest from the other owners once the sale from  
26 Wingfield to the other owner was completed, such purchase to be effective on the same day as the  
27 Wingfield sale and on the same terms and conditions. Whittemore's lack of disclosure breached  
28 Whittemore's fiduciary duty to the Seenos and is further evidence of Whittemore's practice of



1 concealing information from the Seenos for his personal benefit. The discovery by the Seenos of  
2 the concealment of this transaction, approximately one year after the transaction was completed,  
3 raises questions as to whether the transaction was a bona fide arms-length transaction.

4 ee. As acknowledged by Whittemore in his confession, he used Wingfield's  
5 affiliate, Wild West, as the source of his acquisition of high-end, professional stereo equipment  
6 for his personal residences and those of his family. Without the knowledge or consent of the  
7 Seenos and at a time when the company was barely breaking even, Whittemore installed  
8 approximately \$186,000 worth of stereo and sound equipment in his residences for which  
9 Whittemore never reimbursed the company. In addition, Whittemore allowed Wild West's  
10 manager to run up a personal debt for company inventory in the approximate amount of \$58,000  
11 without collecting or attempting to collect such debt. These debts were never repaid even when  
12 Wild West was without working capital, forced to lay off employees and shutting down its  
13 business.

14 ff. As became his common practice and unbeknownst to the Seenos,  
15 Whittemore also repeatedly took advantage of and benefited from the financial strength and solid  
16 reputation of both Wingfield and the Seenos in his personal financial dealings with bank and  
17 lending institutions that were and remain the banking and lending institutions for Wingfield and  
18 the Seenos (and their respective affiliated entities). On information and belief, Whittemore  
19 obtained personal lines of credit with two or more of Wingfield's lenders, namely Bank of the  
20 West and City National Bank, utilizing the same relationship managers as on Wingfield's  
21 operating lines of credit, the Company's primary source of debt financing. On information and  
22 belief, Whittemore obtained loans for amounts and on terms which Whittemore allegedly would  
23 not have otherwise obtained if not for the banking and lending relationships Wingfield and the  
24 Seenos established and maintained with those same lenders. In addition, rather than applying  
25 those loan proceeds to reduce the substantial debt Whittemore owed to both Wingfield and the  
26 Seenos, even after receiving the sum of approximately \$44,000,000 as a part of Alsan's ownership  
27 acquisition, Whittemore once again chose to shortchange Wingfield and the Seenos and used  
28 personal loan proceeds for his personal benefit and causes and for the personal benefit of his

1 family and friends – while also continuing to divert company funds for his personal use and  
2 benefit as referred to in this Complaint. As admitted in his confession, Whittemore lied to the  
3 Seenos when he represented to them that he would use his personal funds towards capital  
4 contributions of Wingfield. To the contrary, Whittemore admitted in his confession that he used  
5 bank loan proceeds for lifestyle choices and to make other investments instead of putting 100%  
6 back into Wingfield; despite representing that he was 100% invested in Wingfield. On  
7 information and belief, Whittemore has defaulted on some or all of these personal loans,  
8 jeopardizing Wingfield's and the Seenos' banking relationships with such institutions. On further  
9 information and belief, Whittemore's acts of diluting and diverting Wingfield's cash resources has  
10 also greatly diminished Wingfield's and the Seenos' ability to raise funds in capital markets.

11 gg. In further example of Whittemore's malfeasance, Whittemore advised the  
12 Seenos in approximately September of 2008, that he "was broke" and did not have the financial  
13 ability to provide his ownership share of capital necessary to keep the Wingfield entities  
14 financially viable. Whittemore convinced Thomas A. Seeno to make his capital contributions for  
15 him. This declaration of being "broke" by Whittemore came as a complete surprise to the Seenos,  
16 particularly to Albert D. Seeno, Jr. who at the time he made his investment payments to  
17 Whittemore in 2007 totaling \$44,100,000 personally advised Whittemore not to spend the entirety  
18 of those funds as Whittemore would be expected to make his required capital contributions.  
19 Nonetheless, in September of 2008, Whittemore led the Seenos to believe that he had spent the  
20 entirety of Alsan's \$44,100,000 in just fifteen months' time. As further indication of Whittemore's  
21 dishonest and deceptive practices towards Wingfield and the Seenos, the Seenos subsequently  
22 discovered that Whittemore did indeed have significant liquid assets in 2008 that he used to  
23 continue his lavish and upscale lifestyle including exotic vacations and substantial jewelry  
24 purchases. Further, on information and belief, in 2008 Whittemore also acquired nine homes in  
25 the names of his children and an employee utilizing his proceeds from the Seeno acquisition of  
26 Whittemore's ownership interests in Wingfield entities. Whittemore purchased these nine homes  
27 and within two months after acquiring the last of these homes declared he was "broke" and  
28 coerced the Seenos into making his capital contributions for him. Similarly, Whittemore took

1 title to Boulder Glen, without the knowledge or consent of the Seenos, just a few months before  
2 declaring he was "broke." In 2009 and 2010 Thomas Seenos, through his entity TNSS, loaned  
3 approximately \$1,454,939 to Whittemore, personally, to be used towards Whittemore's personal  
4 lifestyle. In addition, at this same time when Whittemore declared he was "broke" he was  
5 diverting \$75,000 per month from the sums paid by Wingfield to St. Thomas Trust as referred to  
6 hereinabove. While in control of the books and records, Whittemore chose to deceive the Seenos  
7 as to his true financial condition and took these actions for his benefit and the benefit of his  
8 family and friends rather than make his ownership contributions to or repay debt he owed to the  
9 Seenos or the Wingfield entities. Whittemore continued to receive the benefits of ownership  
10 including utilization of tax write-offs to shelter his other sources of income when he made no  
11 capital contributions. When Whittemore stopped making capital contributions he should have  
12 been relieved of his rights of ownership and those tax losses should have been utilized by the  
13 Seenos.

14 hh. In addition to ownership interests in the Wingfield entities, both TNSS and  
15 Alsan acquired from Whittemore ownership interests in several outdoor electronic billboard sign  
16 companies ("LED Sign Companies"). However, when Alsan acquired its ownership in 2007,  
17 Whittemore and Alsan agreed that Alsan would not participate in further funding or losses with  
18 respect to the LED Sign Companies which losses then totaled approximately \$2,777,000.  
19 Pursuant to Section 1 of the Purchase and Sale Agreement between Whittemore and Alsan,  
20 Whittemore agreed to "indemnify and hold Alsan harmless from any losses associated with any  
21 and all of the LED Sign Companies. Further, Alsan shall not be required to participate in any  
22 future capital transactions of any of the sign companies unless Alsan agrees, at its sole option, to  
23 such participation." Whittemore has failed to make good on his promise and legal commitment to  
24 repay the \$2,777,000 Wingfield had incurred and said sum, with interest accrued thereon, remains  
25 due, owing and unpaid by Whittemore to Wingfield.

26 ii. On information and belief, Whittemore used the power and prestige he  
27 gained by his ownership in Wingfield and from his association with the Seenos to foster  
28 relationships within the Nevada business community at large as well as with banks and lenders,

1 law firms, and local, State and Federal lobbyists and politicians for the self-serving purposes of  
2 bettering his personal financial and political standing and for maintaining an extraordinarily  
3 lavish lifestyle for himself, his family and friends at the expense of Plaintiffs.

4           jj. Plaintiffs relied on representations and promises made by Whittemore as  
5 well as his status as a licensed attorney with many years legal experience and his reputation as a  
6 person of alleged credibility, honesty, integrity and sound character in their course of business  
7 dealings with Whittemore. The egregious acts of Whittemore as alleged in this Complaint have  
8 cost Wingfield, its affiliates, and the Seenos tens of millions of dollars. Those alleged acts  
9 include Whittemore making unwritten, undocumented and unsecured financial and real estate  
10 deals with business, legal and public relations professionals for Whittemore's personal financial  
11 gain and to further his political lobbying causes. Many of those same business, legal and public  
12 relations professionals also represented Wingfield and its affiliates and, therefore, were  
13 supposedly acting in the best interests of Wingfield and the Seenos. The Seenos have recently  
14 learned that many of those business, legal and public relations professionals are long-time  
15 personal friends of Whittemore. Whittemore never disclosed to the Seenos the conflicts of  
16 interest created by those personal friendships. To the contrary, Whittemore made sure those  
17 friendships prospered at the expense of Wingfield and the Seenos as alleged in this Complaint.

18           kk. A few examples of Whittemore's using Wingfield's business relationships  
19 and the most mission critical business partners for his direct personal gain and furtherance of his  
20 lobbying activities include the following:

21           i. On information and belief, Whittemore personally received  
22 significant lobbying revenue, personally, from Wingfield's development partner in the Coyote  
23 Springs development, Pardee, for lobbying activities performed by Whittemore unrelated to the  
24 business affairs of Wingfield or any of its affiliates. On further information and belief,  
25 Whittemore received the sum of \$660,000 from Pardee on January 4, 2008, and an additional  
26 \$660,000 from Pardee on May 5, 2008. This relationship and the significant compensation  
27 Whittemore received from Pardee was not timely disclosed by Whittemore to the Seenos and was  
28 a clear conflict of interest. The transaction between Wingfield and Pardee is a complicated,

1 multi-million dollar transaction that is crucial to the success of Wingfield's business interests.  
2 Whittemore negotiated that transaction on behalf of Wingfield while receiving substantial  
3 personal compensation from the "opposing" party. This was a blatant conflict of interest in  
4 Whittemore's role as an attorney and fiduciary to the Seenos. The damages resulting from such  
5 practice are ongoing and are the subject of ongoing review.

6 ii. On information and belief, Whittemore and Defendant Annette  
7 Whittemore, as President of Wild West, supplied equipment and furnished installation services to  
8 many of their friends and associates, including the principals of a public relations firm doing a  
9 substantial amount of business with Wingfield, at or below cost, thereby depleting the inventory  
10 otherwise available for sale to the general public and reducing the profits of that company.

11 iii. On information and belief, Whittemore solicited and received a  
12 \$100,000 grant from Nevada Energy for the benefit of WPI. Nevada Energy is a critically  
13 important and key component of the mass energy plan Wingfield needs for its 43,000+/- acre  
14 Coyote Springs development project. Whittemore's failure to disclose to the Seenos his  
15 requesting and securing such grant for the benefit of WPI breached his fiduciary obligations to the  
16 Seenos.

17 iv. On information and belief, Whittemore also solicited and received  
18 contributions from Pardee for the benefit of WPI and engaged the services of the nationally  
19 recognized lobbying and public relations firm with whom Wingfield was doing business, as well  
20 as Nevada attorneys Gordon Garrett, Alfredo Alonzo and the law firms of Lewis & Roca and  
21 Lionel, Sawyer & Collins to serve as registered lobbyists for WPI, all without the knowledge or  
22 consent of the Seenos.

23 v. The result of these alleged acts by Whittemore not only  
24 significantly diminished the current financial strength of Wingfield and its affiliates but also  
25 leaves the Seenos in a state of suspicion with respect to many of those business, legal and public  
26 relations professionals and potentially places Wingfield, its affiliates and the Seenos at financial  
27 risk with respect to liabilities and contingencies that Whittemore has greatly undervalued or failed  
28 to disclose altogether.

1           22.    Upon information and belief, the aforementioned misdeeds and deceitful  
2 transactions only constitute a portion of Whittemore's misconduct. Additional investigation is  
3 underway and likely to reveal further malfeasance.

4           23.    Since Whittemore's admission of his misconduct in September of 2010, Wingfield  
5 representatives have met with Whittemore on numerous occasions in an attempt to piece together  
6 the extent of Whittemore's actions and in an attempt to begin settling all of the amounts due to  
7 Wingfield. While Whittemore has delivered some of the properties and assets to Wingfield that  
8 he said he would in his confession, there are numerous other assets he has not delivered to the  
9 Seenos as promised including, but not limited to, the proceeds of life insurance policies, vehicles,  
10 notes receivables, real property security and renegotiations of loans with third parties including a  
11 note which he specifically stated in his "confession" that he would assign to WNG.

12           24.    In addition, at such meetings, Whittemore changed his story several times, feigned  
13 ignorance or lack of recall when questioned on actions taken by Whittemore in his capacity as a  
14 Wingfield Manager, denied the existence of notes receivables which he had formerly claimed he  
15 had either disclosed to the Seenos or listed in his personal financial statements, all of which were  
16 designed to forestall further inquiry by Plaintiffs into his past actions and current financial  
17 situation.

18           25.    Whittemore operated and controlled WNG and its subsidiary entities in a  
19 fraudulent manner, which was purposefully concealed by Whittemore from the Plaintiffs.  
20 Whittemore exercised adverse domination over WNG and its affiliated and subsidiary entities,  
21 including Plaintiffs named herein. Whittemore's actionable misconduct as described herein was  
22 done while acting outside of the scope and course of his employment and fiduciary duties.  
23 Neither Plaintiffs nor their subsidiary or related entities are imputed with Whittemore's  
24 knowledge of his own misconduct, because Whittemore was acting on his own behalf and not on  
25 behalf of the Plaintiffs or their related or subsidiary entities. During Whittemore's concealment of  
26 his misconduct and fraudulent actions, he was not the sole representative of the principal entities  
27 victimized by his fraudulent conduct. The Plaintiffs herein were innocent insiders who could not  
28 have exercised corporate authority to prevent Whittemore's fraudulent conduct. As a previous

1 agent of the Plaintiff entities, Whittemore's actions and conduct were adverse to the principal and  
2 Whittemore, in conducting the acts, omissions and misconduct described herein, totally  
3 abandoned his principal's interests.

4 26. As a result of Whittemore's conduct, Plaintiffs have been forced to retain the  
5 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
6 complained of herein and are therefore entitled to all of their attorneys' fees and costs associated  
7 with bringing this action.

8 **FIRST CLAIM OF RELIEF**

9 ***(Breach of Fiduciary Duties)***

10 27. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
11 contained in the preceding paragraphs as though fully set forth herein

12 28. By virtue of his position as a Wingfield Manager, Whittemore owed Wingfield a  
13 fiduciary duty of good faith, honesty and full disclosure and Wingfield relied upon that fiduciary  
14 duty.

15 29. Whittemore breached that fiduciary duty by, among other things, (i) taking funds  
16 from Wingfield without the Seenos' knowledge or consent, (ii) providing Wingfield funds,  
17 services, and other perks to friends, family and business associates without the other Wingfield  
18 Managers' knowledge or consent, (iii) authorizing Wingfield expenditures that should have been  
19 charged to outside entities or other third parties, (iv) giving away company assets to friends,  
20 family, and business associates without the Seenos' knowledge or consent; (v) by usurping  
21 Wingfield's business opportunities; and (vi) by failing to act in the best interest of Wingfield  
22 while performing his duties as a Wingfield Manager.

23 30. As a direct and proximate result of Whittemore's acts and omissions, Wingfield  
24 has suffered and will continue to suffer damages in an amount to be proven at trial, but in any  
25 event in excess of \$10,000.

26 31. As a result of Whittemore's conduct, Wingfield has been forced to retain the  
27 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
28

1 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
2 bringing this action.

3 **SECOND CLAIM OF RELIEF**

4 ***(Fraudulent Concealment)***

5 32. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
6 contained in the preceding paragraphs as though fully set forth herein.

7 33. By virtue of his position as a Wingfield Manager, Whittemore owed Wingfield a  
8 fiduciary duty of good faith, honesty and full disclosure and Wingfield relied upon that fiduciary  
9 duty.

10 34. Whittemore breached that fiduciary duty by, among other things:

11 a. Using Avantair flights between 2004 and 2010 flights from Wingfield's  
12 fractional ownership for family, friends, and others and charged these flights to Wingfield without  
13 reimbursing Wingfield;

14 b. Authorizing WPI's use of the flights with Avantair without reimbursing  
15 Wingfield;

16 c. Authorizing various Wingfield employees to perform work for WPI; failing  
17 to account for these hours and failing to reimburse Wingfield for the use of its employees'  
18 non-Wingfield related work, including directing that any and all hours for WPI work performed  
19 by an outside lobbying agency be billed to Wingfield. Again, this was done without reimbursing  
20 Wingfield;

21 d. Paying himself extra management fees between 2007 and 2010,

22 e. Withdrawing approximately \$450,000.00 in additional payroll and owner  
23 draws from Wingfield's accounts for himself between March 2007 and June 2007;

24 f. Taking a salary from Wingfield in excess of what the Seenos agreed to pay  
25 between 2003 through 2010;

26 g. Receiving and keeping investment funds for himself that should have gone  
27 to Wingfield;



- 1 h. Failing to give Wingfield fees that he collected that should have gone to
- 2 Wingfield;
- 3 i. Misappropriating funds by taking \$600,000 in cash as meals and
- 4 entertainment expenses between January 2004 through June 2010 without reimbursement or
- 5 accounting;
- 6 j. Using the restaurant at the Red Hawk to cater a multitude of private parties,
- 7 family dinners, and other family events, without reimbursing Wingfield;
- 8 k. Approving generous discounts of approximately 35%, for others' use of
- 9 Red Hawk, without reimbursing Wingfield;
- 10 l. Incurring in excess of \$1,000,000 in personal charges between 2004
- 11 through March 2011 at the clubhouse, golf course, and catering events, without reimbursing
- 12 Wingfield;
- 13 m. Allowing friends and family to play numerous rounds of golf at Red Hawk
- 14 without compensating Wingfield, without reimbursing Wingfield;
- 15 n. Inappropriately charging a total of \$572,693.60 to Wingfield for costs
- 16 related to consulting work in contradiction to the agreement with the Seenos;
- 17 o. Billing Wingfield for his personal use of Wingfield's CPA firm between
- 18 2004 through 2009, without reimbursing Wingfield;
- 19 p. Incorrectly writing-off Wingfield investments;
- 20 q. Retaining Wingfield investments for himself;
- 21 r. Giving away Wingfield assets, including, but not limited to elk tags valued
- 22 at \$15,000 per tag, without reimbursing Wingfield;
- 23 s. Making certain donations that should have been paid by him instead of
- 24 Wingfield;
- 25 t. Writing-off of amounts owed to Wingfield by Whittemore's personal
- 26 friends and business contacts;
- 27 u. Loaning hundreds of thousands of dollars to personal friends from
- 28 Wingfield accounts, without reimbursing Wingfield;

1 v. Loaning funds totaling over \$500,000 to other companies, including  
2 Uniforms Express, without reimbursing Wingfield;

3 w. Authorizing the use of Wingfield funds in the construction of his home,  
4 without reimbursing Wingfield;

5 x. Charging construction expenses to Wingfield that should have been borne  
6 by him;

7 y. Concealing his interests in various entities and organizations to Wingfield's  
8 detriment; and

9 z. Concealing his misdeeds from the Seenos.

10 35. All of this was done without the knowledge, consent or approval of the Seenos and  
11 Whittemore intentionally concealed these misdeeds from the Seenos.

12 36. Beginning in 2010, the Seenos began noticing discrepancies in Wingfield's  
13 financials, which led them to confront Whittemore. Confronted with evidence of his misdeeds,  
14 Whittemore confessed and disclosed a multitude of acts that revealed years of theft, conversion,  
15 asset misappropriation, and breach of fiduciary duties to Wingfield.

16 37. As a direct and proximate result of Defendants' acts and omissions, Wingfield has  
17 suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in  
18 excess of \$10,000.

19 38. As a result of Whittemore's conduct, Wingfield has been forced to retain the  
20 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
21 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
22 bringing this action.

23 **THIRD CLAIM OF RELIEF**

24 ***(Civil Conspiracy)***

25 39. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
26 contained in the preceding paragraphs as though fully set forth herein.

4                    41.        Specifically, Defendants conspired to misappropriate millions of dollars of  
5   Wingfield funds and assets without Wingfield's or the Seenos' knowledge.

6           42. As a direct and proximate result of Defendants' acts and omissions, Wingfield has  
7 suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in  
8 excess of \$10,000.

9           43.       As a result of Whittemore's conduct, Wingfield has been forced to retain the  
10   services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
11   complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
12   bringing this action.

#### **FOURTH CLAIM OF RELIEF**

***(Breach of Contract)***

15            44.      Wingfield hereby repeats, realleges, and incorporates all of the allegations  
16      contained in the preceding paragraphs as though fully set forth herein.

17      45.      The Operating Agreement constitutes a valid, binding, and enforceable contract.

18           46.       At all times relevant hereto, the Seenos fulfilled their contractual obligations to  
19       Wingfield under the Operating Agreement, or were excused from performance under the same.

47. Whittemore failed to fulfill his obligations under the Operating Agreement and has materially breached the same by, *inter alia*, failing to perform his duties as a Wingfield Manager in good faith.

23           48.     As a direct and proximate result of Whittemore's acts and omissions, Wingfield  
24     has suffered and will continue to suffer damages in an amount to be proven at trial, but in any  
25     event in excess of \$10,000.

26           49.       As a result of Whittemore's conduct, Wingfield has been forced to retain the  
27       services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct

1 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
2 bringing this action.

3 **FIFTH CLAIM OF RELIEF**

4 ***(Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing)***

5 50. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
6 contained in the preceding paragraphs as though fully set forth herein.

7 51. Whittemore entered into a valid and binding contract for the operation of  
8 Wingfield.

9 52. In all contractual agreements in Nevada, including the Operating Agreement, there  
10 is an implied covenant of good faith and fair dealing.

11 53. Pursuant to the terms of the Operating Agreement, Whittemore owed a duty of  
12 good faith to Wingfield in the performance of his duties as a Wingfield Manager.

13 54. A special and confidential relationship existed between Whittemore and Wingfield  
14 in light of his position of trust and confidence to Wingfield.

15 55. Whittemore breached that implied covenant of good faith and fair dealing by,  
16 among other things, (i) taking funds from Wingfield without the Seenos' knowledge or consent,  
17 (ii) providing Wingfield funds, services, and other perks to friends, family and business associates  
18 without the Seenos' knowledge or consent, (iii) authorizing Wingfield expenditures that should  
19 have been charged to outside entities or other third parties, (iv) giving away company assets to  
20 friends, family, and business associates without the Seenos' knowledge or consent; and (v) by  
21 failing to act in the best interest of Wingfield while performing his duties as a Wingfield  
22 Manager.

23 56. As a direct and proximate result of Whittemore's acts and omissions, Wingfield  
24 has suffered and will continue to suffer damages in an amount to be proven at trial, but in any  
25 event in excess of \$10,000.

26 57. As a result of Whittemore's conduct, Wingfield has been forced to retain the  
27 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
28

1 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
2 bringing this action.

3 **SIXTH CLAIM OF RELIEF**

4 ***(Unjust Enrichment)***

5 58. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
6 contained in the preceding paragraphs as though fully set forth herein.

7 59. Wingfield conferred a benefit on Whittemore and it did not intend to confer such a  
8 benefit gratuitously.

9 60. Whittemore will be unjustly enriched if allowed to retain all of the funds and assets  
10 misappropriated from Wingfield without compensating Wingfield.

11 61. It would be inequitable not to require Whittemore to return the misappropriated  
12 assets and compensate Wingfield for the misappropriated funds.

13 62. As a direct and proximate result of Whittemore's unjust enrichment, Wingfield has  
14 suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in  
15 excess of \$10,000.

16 63. As a result of Whittemore's conduct, Wingfield has been forced to retain the  
17 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
18 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
19 bringing this action.

20 **SEVENTH CLAIM OF RELIEF**

21 ***(Conversion)***

22 64. Wingfield hereby repeats, realleges, and incorporates all of the allegations  
23 contained in the preceding paragraphs as though fully set forth herein.

24 65. Whittemore wrongfully committed dominion over Wingfield's property by, among  
25 other things,

26 a. Using Avantair flights between 2004 and 2010 flights from Wingfield's  
27 fractional ownership for family, friends, and others and charged these flights to Wingfield without  
28 reimbursing Wingfield;

1                   b.       Authorizing WPI's use of the flights with Avantair without reimbursing  
2 Wingfield for costs incurred;

3                   c.       Authorizing various Wingfield employees to perform work for WPI; failing  
4 to account for these hours and failing to reimburse Wingfield for the use of its employees'  
5 non-Wingfield related work, including directing that any and all hours for WPI work performed  
6 by an outside lobbying agency be billed to Wingfield. Again, this was done without reimbursing  
7 Wingfield;

8                   d.       Paying himself extra management fees between 2007 and 2010,

9                   e.       Withdrawing approximately \$450,000 in additional payroll and owner  
10 draws from Wingfield's accounts for himself between March 2007 and June 2007;

11                  f.       Taking a salary from Wingfield in excess of what the Seenos agreed to pay  
12 between 2003 through 2010;

13                  g.       Receiving and keeping investment funds for himself that should have gone  
14 to Wingfield;

15                  h.       Failing to give Wingfield fees that he collected that should have gone to  
16 Wingfield;

17                  i.       Misappropriating funds by taking \$600,000 in cash as meal and  
18 entertainment expenses between January 2004 through June 2010 without consent, reimbursement  
19 or accounting;

20                  j.       Using the restaurant at the Red Hawk to cater a multitude of private parties,  
21 family dinners, and other family events, without reimbursing Wingfield;

22                  k.       Approving generous discounts of approximately 35%, for others' use of  
23 Red Hawk, without reimbursing Wingfield;

24                  l.       Incurring in excess of \$1,000,000 in personal charges between 2004  
25 through March 2011 at the clubhouse, golf course, and catering events, without reimbursing  
26 Wingfield;

27                  m.       Allowing friends and family to play numerous rounds of golf at Red Hawk  
28 without compensating Wingfield;

1 n. Inappropriately charging a total of \$572,693.60 to Wingfield for costs  
2 related to consulting work in contradiction to the agreement with the Seenos;

3 o. Billing Wingfield for his personal use of Wingfield's CPA firm between  
4 2004 through 2009, without reimbursing Wingfield;

5 p. Retaining Wingfield investments for himself;

6 q. Giving away Wingfield assets, including, but not limited to elk tags valued  
7 at \$15,000 per tag, without reimbursing Wingfield;

8 r. Making certain donations that should have been paid by him instead of  
9 Wingfield;

10 s. Writing-off of amounts owed to Wingfield by Whittemore's personal  
11 friends and business contacts;

12 t. Loaning hundreds of thousands of dollars to personal friends from  
13 Wingfield accounts, without reimbursing Wingfield;

14 u. Loaning funds totaling over \$500,000 to other companies, including  
15 Uniforms Express, without reimbursing Wingfield;

16 v. Authorizing the use of Wingfield funds in the construction of his home,  
17 without reimbursing Wingfield; and

18 w. Charging construction expenses to the company that should have been  
19 borne by him.

20 66. Whittemore's wrongful dominion over Wingfield's assets was inconsistent with  
21 and in derogation of Wingfield's rights.

22 67. As a direct and proximate result of Whittemore's conversion, Wingfield has  
23 suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in  
24 excess of \$10,000.

25 68. As a result of Whittemore's conduct, Wingfield has been forced to retain the  
26 services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct  
27 complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with  
28 bringing this action.

**EIGHTH CLAIM OF RELIEF**

***(Intentional Interference with Prospective Economic Advantage)***

69. Wingfield hereby repeats, realleges, and incorporates all of the allegations contained in the preceding paragraphs as though fully set forth herein.

70. A prospective contractual relationship existed between Wingfield and MRGI, the successor entity to Argus Media, Inc., regarding a potential merger of MRGI. Upon such merger or acquisition, Wingfield's interest in MRGI would be valued at \$2,280,000 based on Wingfield's prior investment.

71. Whittemore knew of this prospective relationship because MRGI contacted Whittemore directly to inform him of Wingfield's potential future interest.

72. Whittemore intended to harm Wingfield by preventing the relationship between MRGI and Wingfield by, inter alia, incorrectly writing-off the investment amount or retaining the investment amount for himself.

73. This original investment was part of Whittemore's contribution to form Wingfield and thus, Wingfield owned the interest in Argus Media, Inc.

74. Whittemore had no privilege or right to unilaterally write-off any such investments.

75. As a direct and proximate result of Whittemore's conduct, Wingfield has suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in excess of \$10,000.

76. As a result of Whittemore's conduct, Wingfield has been forced to retain the services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with bringing this action.

**NINTH CLAIM OF RELIEF**

***(Breach of Fiduciary Duties)***

77. TRP hereby repeats, realleges, and incorporates all of the allegations contained in the preceding paragraphs as though fully set forth herein.



79. Whittemore breached that fiduciary duty by, among other things, (i) taking "consulting fees" from the real estate agent for the Geyser Ranch acquisition; and (ii) failing to disclose his benefit in the Geyser Ranch acquisition to the Seenos.

81. As a result of Whittemore's conduct, TRP has been forced to retain the services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with bringing this action.

***(Breach of Fiduciary Duties)***

83. Whittemore owed Foothills a fiduciary duty of good faith, honesty and full disclosure and Foothills relied upon that fiduciary duty.

85. As a direct and proximate result of Whittemore's acts and omissions, Foothills has suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in excess of \$10,000.

86. As a result of Whittemore's conduct, Foothills has been forced to retain the services of Pisanelli Bice PLLC and Robison, Belaustegui, Sharp & Low to address the conduct complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with bringing this action.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against the named Defendants and demand as follows:

1. For an award of special and compensatory damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
2. For an award of punitive damages;
3. For an award of pre- and post-judgment interest until the judgment is paid in full;
4. For an award of attorney's fees and costs of suit; and
5. For such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs, by and through their undersigned counsel of record, hereby demand a trial by jury on all issues triable to a jury as a matter of right.

Dated this 27th day of January, 2012.

PISANELLI BICE, PLLC

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